

IN THE UNITED DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FICHTER DESIGNS, LLC,

Plaintiffs

v.

WINBO USA, INC.

Defendant.

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CIVIL ACTION NO. _____

**PLAINTIFF FICHTER DESIGNS, LLC'S COMPLAINT FOR PATENT
INFRINGEMENT AGAINST DEFENDANT WINBO USA, INC.**

JURY DEMAND

THE PLAINTIFF ALLEGES:

JURISDICTION AND VENUE

1. This action for patent infringement arises under the patent laws of the United States, 35 U.S.C. §§1 et seq. This Court has jurisdiction under 28 U.S.C. §1338(a). Venue is proper in this Court, pursuant to 28 U.S.C. §§1391 and 1400(b).

PARTIES

2. Plaintiff Fichter Designs, LLC (hereinafter "FICHTER" or "PLAINTIFF") is a limited liability corporation organized and existing under the laws of Texas, having its principal place of business at 19003 Oakway Drive, Spring, Texas 77388.

3. Upon information and belief, defendant Winbo USA, Inc. (hereinafter referred to as "Winbo") is a corporation organized and existing under the laws of California, having its principal place of business at 2120 California Avenue, Corona, CA 92881. Winbo is doing business in this district and has committed acts of infringement in this district. Winbo may be served through its registered agent for service Eddie Cheung, 111 N. Atlantic Blvd, Suite 247, Monterey Park, California 91754.

**FIRST CAUSE OF ACTION FOR INFRINGEMENT OF
UNITED STATES PATENT NO. 6,874,801**

4. PLAINTIFF is the owner by assignment of United States Patent No. 6,874,801, entitled "Apparatus for assisting entry into high road clearance vehicles," with full rights in and to the claims and causes of action involved herein.

5. Upon information and belief, defendant WINBO, (hereinafter "DEFENDANT") has, and is threatening to infringe United States Patent No. 6,874,801, by making, using, offering to sell and selling infringing assisting steps in the United States, which is marketed at least under the title Rock Rail (hereinafter "Rock Rail ") by Lund International, Inc., and by inducing others to make, use, offer to sell, and sell in the United States said infringing Rock Rail, and by contributorily infringing said patent. The described acts of infringement by the DEFENDANT, have taken place and are taking place in this District and elsewhere.

6. Upon information and belief, the acts of infringement by the DEFENDANT have been willful and deliberate and DEFENDANT has made unlawful gains and profits from said infringement.

7. Unless enjoined by this Court, DEFENDANT, individually and collectively, will continue its willful infringement of United States Patent No. 6,874,801 and PLAINTIFF has been and will continue to be seriously and irreparably injured.

**SECOND CAUSE OF ACTION FOR INFRINGEMENT OF
UNITED STATES PATENT NO. 7,416,202**

8. PLAINTIFF is the owner by assignment of United States Patent No. 7,416,202, entitled "Apparatus for assisting entry into high road clearance vehicles," with full rights in and to the claims and causes of action involved herein.

9. Upon information and belief, DEFENDANT has, is and is threatening to infringe United States Patent No. 7,416,202, by making, using, offering to sell and selling infringing assisting steps in the United States, which is marketed at least under the title Rock Rail (hereinafter "Rock Rail") by Lund International, Inc., and by inducing others to make, use, offer to sell, and sell in the United States said infringing Rock Rail, and by contributorily infringing said patent. The described acts of infringement by the DEFENDANT, have taken place and are taking place in this District and elsewhere.

10. Upon information and belief, the acts of infringement by the DEFENDANT have been willful and deliberate and DEFENDANT has made unlawful gains and profits from said infringement.

11. Unless enjoined by this Court, DEFENDANT, individually and collectively, will continue its willful infringement of United States Patent No. 7,416,202 and PLAINTIFF has been and will continue to be seriously and irreparably injured.

**THIRD CAUSE OF ACTION FOR INFRINGEMENT OF
UNITED STATES PATENT NO. 7,717,444**

12. PLAINTIFF is the owner by assignment of United States Patent No. 7,717,444 , entitled "Apparatus for assisting entry into high road clearance vehicles," with full rights in and to the claims and causes of action involved herein.

13. Upon information and belief, DEFENDANT, has, is and is threatening to infringe United States Patent No. 7,717,444, by making, using, offering to sell and selling infringing assisting steps in the United States, which is marketed at least under the title Rock Rail (hereinafter " Rock Rail ") by Lund International, Inc., and by inducing others to make, use, offer to sell, and sell in the United States said infringing Rock Rail, and by contributorily infringing said patent. The described acts of infringement by the DEFENDANT, have taken place and are taking place in this District and elsewhere.

14. Upon information and belief, the acts of infringement by the DEFENDANT, have been willful and deliberate and DEFENDANT has made unlawful gains and profits from said infringement.

15. Unless enjoined by this Court, DEFENDANT, individually and collectively, will continue its willful infringement of United States Patent No. 7,416,202 and PLAINTIFF has been and will continue to be seriously and irreparably injured.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays:

(a) That this Court enter judgment that DEFENDANT has infringed U.S. Patent Nos. 6,874,801, 7,416,202 and 7,717,444.

(b) That this Court enter a preliminary and permanent injunction restraining DEFENDANT, their officers, agents, servants and employees, and each of them and

anyone acting in concert therewith, from infringing U.S. Patent Nos. 6,874,801, 7,416,202 and 7,717,444.

(c) That this Court order DEFENDANT to pay all damages sustained by PLAINTIFF resulting from said DEFENDANT'S infringement of U.S. Patent Nos. 6,874,801, 7,416,202 and 7,717,444, and to compensate PLAINTIFF for such infringement and that such damages be trebled.

(d) That the Court order an accounting with respect to sales by DEFENDANT of infringing products.

(e) That this Court order DEFENDANT to pay the PLAINTIFF'S costs, expenses, disbursements and attorney fees herein.

(f) That this Court find this is an exceptional case and award attorney's fees and enhanced damages for DEFENDANT'S infringement of the patents; and

(g) That this Court award to PLAINTIFF such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands trial by jury of all issues so triable.

Dated: May 5, 2014

Respectfully Submitted
MASON & PETRUZZI

/s/ James D. Petruzzi
James D. Petruzzi
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